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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1851 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT BANK WORKERS' UNION

Versus

DENA BANK

Appearance:

1. Special Civil Application No. 1851 of 1989

MR RJ OZA for Petitioners

MS PJ DAVAWALA for Respondent No. 1, 3

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 23/03/2001

ORAL JUDGEMENT

Gujarat Bank Workers Union, through its Treasurer and Dena Bank Officers' Association-petitioners have filed this petition questioning the validity of the decision of the Dena Bank to refuse leave to the members of the petitioner Union/Association and thereupon to

deduct the wages of its employees for 10.3.1989, the day on which the representatives of the members of the petitioner Union/Association had demonstrated `Dharna Programme' at the Regional Office of Dena Bank. The petitioners have therefore prayed that this court may issue a writ of mandamus and/or a writ in the nature of mandamus for quashing and setting aside the decision of the respondent Bank authority to refuse leave of the employees of the Dena Bank for a day of 10.3.1989 for participating in `Dharna Programme' and further to quash and set aside the decision of the respondent Bank deducting wages of the concerned employees for participating in Dharna programme from the wage bill of March 1989 or from subsequent wage bill. It has been stated that similarly situated bank employees have filed Special Civil Application Nos. 6825 of 1987, 424 of 1988 before this court. This matter was admitted because the other matters were admitted. Mr. R.J. Oza, learned counsel for the petitioners, states that Special Civil Application No. 6820 of 1987, Spl. C.A. Nos. 6825 of 1987, 424 of 1988 and 508 of 1989 were heard by this court (Coram: R.K. Abichandani, J) and this court considered the facts of the case and ultimately in para 10 after considering the judgement of the Hon'ble Supreme Court in the case of SYNDICATE BANK AND ANR. VS. K. UMESH NAYAK reported in (1994) 5 SCC 572 the court observed thus:-

"Even in the present case, having regard to the facts and circumstances of the case, it cannot be said that the action proposed or the impugned circular were arbitrary or violative of Article 14 or 16 of the Constitution. As held by the Supreme Court in Syndicate Bank's case (supra), the question regarding the legality of the strike and consequent deduction of wages on the principle of `No work' `no pay' can be suitably determined by the industrial adjudicator under the provisions of the Industrial Disputes Act and it is not for this Court to enter into that arena in exercise of its writ powers. All these petitions are therefore rejected. Rule is discharged in each of them with no order as to costs. Interim relief in each case stands vacated."

Having regard to the facts and circumstances of the case, I also hold that it cannot be said that the action proposed by the impugned Circular was violative of Article 14 or 16 of the Constitution. After considering

the judgement of the Supreme Court in Syndicate Bank (supra) I am of the view that the question regarding legality of the strike and consequent deduction of wages on the principle of `no work', `no pay' can be suitably determined by the Industrial adjudicator under the provisions of Industrial Disputes Act and it is not for this court to enter into that arena in exercise of its writ powers. The petition is therefore rejected with no order as to costs. Interim relief stands vacated. Rule is discharged.

(K.M. MEHTA, J)

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